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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/032,535	01/02/2002	John C. Shaw	054253-5001	5955
24271	7590	04/12/2006		
JOHN ALEXANDER GALBREATH 2516 CHESTNUT WOODS CT REISTERSTOWN, MD 21136			EXAMINER HARBECK, TIMOTHY M	
			ART UNIT 3628	PAPER NUMBER
DATE MAILED: 04/12/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/032,535	SHAW ET AL.	
	Examiner	Art Unit	
	Timothy M. Harbeck	3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 01 January 0163.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-163 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-163 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-163 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ferstenberg et al (hereinafter Ferstenberg US PAT 6,968,318 B1) in view of May 6,421,653) in view of Luke et al (hereinafter Luke, US PAT 6,131,087).

**Re Claim 1:** Ferstenberg discloses a computer method and system for intermediated exchanges comprising the steps of:

- Receiving indications of interest from potential transferees and potential transferors into a central processing system (C13, lines 41-49)
- Wherein the indications of interest are received from an order management system integrated with the central processing system (C11, lines 1-35)
- Each indication of interest involving the transfer of a specific item (C4, lines 3-8)
- Anonymously (C14, line 35-36) comparing indications of interest received from potential transferees and potential transferors within the central processing system to determine whether a match has occurred (See discussion C17-C19, specifically C18 lines 45-67)

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- Determining counterparties to a transaction based on said determination of whether a match has occurred, notifying the authorized representative of the counterparties that a match has occurred (C17-C19, specifically C18 lines 45-48)
- Providing contacting means to allow the authorized representative to consummate a transaction (C19 lines 18-46)

Ferstenberg does not explicitly disclose

- Allowing the authorized representatives and counterparties to contact one another directly so that a transaction can be consummated by the authorized representative and the contra-parties

Luke discloses a method for automatically identifying, matching and near-matching buyers and sellers in electronic market transactions wherein potential counterparties have the ability to negotiate directly with one another in order to consummate a potential transaction (C3, lines 54-56). The method of Ferstenberg allows participants to enter bounds relating to a transaction and then systematically negotiate with an intermediary, representing both sides to a transaction, in order to come to a middle ground (see abstract). There is a message exchange protocol between the counterparties and the intermediary source, so that each party can maintain their anonymity with regards to a trade. This exchange is automatic and in response to inputs entered by a participant and is issued by an e-agent acting on the participant's behalf.

However, while these automated negotiations will systematically approach a common middle ground for a transaction, it would be difficult to predict, via a computer-coded program, all potential negotiation scenarios. Luke discloses placing parties, who have previously been deemed as potential trading partners into a communication in order to further flesh out details of the transaction (Column 9, lines 49-65). This further direct negotiation provides the counterparties with an even further opportunity to form an acceptable agreement, more so than relying solely on previously entered bounds. Ferstenberg also notes the advantage of direct negotiation in the case of two parties (C12 lines 65-67). It therefore would have been obvious to anyone skilled in the ordinary art to include the direct negotiation between two potential counterparties, subsequent to an initial screening, to the disclosure of Ferstenberg in order to arrive at an even more acceptable agreement. The purpose of the intermediary is to allow the users to anonymously determine worthy trading partners, without disclosing identities or market activity. Once a match has been identified based on initial bounds, providing direct contacting means, as disclosed by Luke would further enhance the process, as the participants have been assured that a counterparty has independently expressed a mutual trading interest, and they can further discuss intimate details. This additional layer of negotiation would provide the opportunity to increase each counterparty's overall satisfaction with the pending trade.

**Re Claim 2-4:** Ferstenberg in view of Luke discloses the claimed method supra and Ferstenberg further discloses wherein the received indication of interest involves

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the transfer of an equity security, a debt security and a derivative security (Column 4, lines 2-8)

**Re Claim 5:** Ferstenberg in view of Luke discloses the claimed method supra and Ferstenberg further discloses wherein the received indication of interest contains a limit as to the acceptable price per unit of the specific item that is the subject of its associated transaction (C30 lines 25- C31 line 26)

**Re Claim 6:** Ferstenberg in view of Luke discloses the claimed method supra and Ferstenberg further discloses wherein the received indication of interest contains a limit as to the minimum acceptable total value of its associated transaction (C30 line 25- C31 line 26; total value defined by limits as to price and amount variables)

**Re Claim 7:** Ferstenberg in view of Luke discloses the claimed method supra and Ferstenberg further discloses wherein the received indication of interest contains a limit as to the minimum acceptable number of units to be transferred in connection with a transaction (C15, lines 51-55)

**Re Claim 8:** Ferstenberg in view of Luke discloses the claimed method supra and Luke further discloses wherein at least one of the received indications of interest includes ancillary information not used in determining whether a match has occurred in said comparing step but which is transmitted to a matched counterparty during said consummating the transaction step to assist in consummation by the contraparties (Column 5, lines 60-65).

**Re Claims 9-11:** Ferstenberg in view of Luke discloses the claimed method supra and Ferstenberg further discloses wherein a match between a potential

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transferee and a potential transferor is not determined to have occurred in said comparing step unless any price per unit limits, minimum acceptable total values and minimum acceptable number of units, established by each of the potential transferee and the potential transferor are satisfied (C30 line 25- C31 line 26).

**Re Claim 12:** Ferstenberg in view of Luke discloses the claimed method supra and Luke further discloses wherein said providing step also includes providing contacting means directly to the contraparties (C3, line 54-56 “arranges the performance of a negotiated exchange.”)

**Re Claim 13:** Ferstenberg in view of Luke discloses the claimed method supra and while not explicitly disclosing wherein a match is not determined to have occurred between a potential transferee and a potential transferor in said comparing step unless all input fields making up the indication of interest entered by the potential transferee matches all input fields making up the indication of interest entered by the potential transferor, it would have been obvious to anyone of ordinary skill at the time of invention to simply enter a specific value, as opposed to “bounded” values in the Ferstenberg method. In this manner, during the matching process the electronic negotiation phase would essentially be eliminated, as there would be no room to bargain. Each category would have to be matched specifically.

**Re Claim 14:** Ferstenberg in view of Luke discloses the claimed method supra and Ferstenberg further discloses wherein a match is determined to have occurred between a potential transferee and a potential transferor in said comparing step even though all input fields making up the indication of interest entered by the potential

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transferee matches all input fields making up the indication of interest entered by the potential transferor (C3 lines 33-37). This is the purpose of entering bounds, so that there is room to maneuver in case a perfect match is not available.

**Re Claim 15:** Ferstenberg in view of Luke discloses the claimed method supra and while not explicitly disclosing wherein an indication of interest from a potential transferee is not received into the central processing system unless the potential transferee makes a good faith deposit, it would have been obvious to anyone of ordinary skill to include this feature in order to establish the intentions of the potential counterparties and to provide a penalty for withdrawing. The purpose of an anonymous system is to limit the amount of information disclosed. In providing a deposit, users are discouraged from simply trolling the system for market information.

**Re Claim 16:** Ferstenberg in view of Luke discloses the claimed method supra and while not explicitly disclosing wherein an indication of interest from a potential transferor is not received into the central processing system unless the potential transferor makes a minimum firm commitment it would have been obvious to anyone of ordinary skill to include this feature in order to establish the intentions of the potential counterparties. The purpose of an anonymous system is to limit the amount of information disclosed. In providing a firm commitment, users are discouraged from simply trolling the system for market information.

**Re Claim 17:** Ferstenberg in view of Luke discloses the claimed method supra and Ferstenberg further discloses the step of reporting the consummation and terms of the transaction to the central processing system (FIG 9, Ref 159).



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**Re Claims 18 and 35:** The difference between these independent claims and claim 1 is with regards to the communication between the counterparties. In claim 1, this communication is party-rep, in claim 18 communications is rep-rep and in claim 35 communication is party-party. While not explicitly disclosing each separate instance of communication, it was well known in the art for persons to both initiate transactions individually or through the use of an authorized representative. Therefore, any communication between two parties could contain any of the aforementioned combinations. Depending upon the designation of the party in question, the communication could take the form of rep-rep, party-rep, or party-party. The remaining limitations of claims 18 and 35 are the same as claim 1 and can therefore be rejected using the same art and rationale with regards to Ferstenberg in view of Luke. Furthermore, it would have been obvious to anyone skilled in the ordinary art to include these types of communications to the method in order to allow communication between all types of persons involved in a potential transaction.

**Re Claims 19-34:** Further method claims would have been obvious from previously rejected method claims 2-17 and are therefore rejected using the same art and rationale.

**Re Claims 36-50:** Further method claims would have been obvious from previously rejected method claims 2-17 and are therefore rejected using the same art and rationale.

**Re Claim 51:** Further system claim would have been obvious in order to perform previously rejected method claim 1 and is therefore rejected using the same art and rationale.

**Re Claim 52:** Ferstenberg discloses a computer method and system for intermediated exchanges comprising:

- A network, including a secure station and a plurality of remote user locations having respective user identities and communicatively linked to the secure station for data transmission between the secure station and the user locations (FIG 4; C4, lines 13-18 C16 lines 11-14))
- A memory at the secure station for storing user data and for storing transaction data in the form of multiple prospective transaction entries received from the user locations (C4 lines 63- C5 line 3), each of the entries including a transferable item indication and a transaction side indication identifying one of two opposing transaction sides (C18, lines 21-22)
- A search component operatively connected to the memory, said search component performing a comparison of the stored entries with respect to the transferable item indications and the transaction side indications and, based on said comparisons, to select sets of two or more of the stored entries as matching entries having the same transferable item indication and together including transaction side indications identifying the opposing transaction sides (C17 line 37-C19 line 67).

- A message sending component operatively coupled to the search component and to the memory and in response to the selection of each said set of matching entries generating a prospective transaction message including the transaction indication corresponding to each of the matching entries and further providing the prospective transaction message to the user locations associated with said corresponding user identities (C5 lines 4-16)
- A data security component for restricting access to any given prospective transaction entry, even if unmatched, stored in the memory to (i) the user identity corresponding to the given entry and (ii) the user identities corresponding to the other entries in any of said sets of entries that includes the give entry (C14, lines 32-41)

Ferstenberg does not explicitly disclose wherein the transaction message is sent to the users in order to facilitate an interaction among users associated with the user locations to complete a transaction involving the transferable item, wherein the users interact with each other to complete the transaction. Luke discloses a method for automatically identifying, matching and near-matching buyers and sellers in electronic market transactions wherein potential counterparties have the ability to negotiate directly with one another in order to consummate a potential transaction (C3, lines 54-56). The method of Ferstenberg allows participants to enter bounds relating to a transaction and then systematically negotiate with an intermediary, representing both sides to a transaction, in order to come to a middle ground (see abstract). There is a

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message exchange protocol between the counterparties and the intermediary source, so that each party can maintain their anonymity with regards to a trade. This exchange is automatic and in response to inputs entered by a participant and is issued by an e-agent acting on the participant's behalf.

However, while these automated negotiations will systematically approach a common middle ground for a transaction, it would be difficult to predict, via a computer-coded program, all potential negotiation scenarios. Luke discloses placing parties, who have previously been deemed as potential trading partners into a communication in order to further flesh out details of the transaction (Column 9, lines 49-65). This further direct negotiation provides the counterparties with an even further opportunity to form an acceptable agreement, more so than relying solely on previously entered bounds. Ferstenberg also notes the advantage of direct negotiation in the case of two parties (C12 lines 65-67). It therefore would have been obvious to anyone skilled in the ordinary art to include the direct negotiation between two potential counterparties, subsequent to an initial screening, to the disclosure of Ferstenberg in order to arrive at an even more acceptable agreement. The purpose of the intermediary is to allow the users to anonymously determine worthy trading partners, without disclosing identities or market activity. Once a match has been identified based on initial bounds, providing direct contacting means, as disclosed by Luke would further enhance the process, as the participants have been assured that a counterparty has independently expressed a mutual trading interest, and they can further discuss intimate details. This additional

layer of negotiation would provide the opportunity to increase each counterparty's overall satisfaction with the pending trade.

**Re Claim 53:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses wherein said message sending component provides the prospective transaction message substantially simultaneously to the user locations associated with said corresponding user identities (C12, lines 47-49).

**Re Claim 54:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses a menu for enabling users to select transferable item indications corresponding to different types of transferable items (C24, lines 56-59)

**Re Claim 55:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses wherein said menu is stored in memory (C24, lines 56-59)

**Re Claim 56:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses wherein the data security component includes a plurality of user pages maintained at the secure station each of the user pages having associated with and accessible only by one of the users (C14, lines 32-41).

**Re Claim 57:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses wherein each of the prospective transaction entries includes a further indication selected from a group of further indications consisting of: an amount indication designating an amount of the transferable item corresponding to the transferable item indication; a price indication designating an acceptable price or an acceptable price range and a time limit indication (C30 line 25 – C31 line 64).

**Re Claim 58:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses an apportionment component, responsive to the selection of a set of matching entries that includes at least two entries having the same transaction side, for apportioning the designated amount of the transferable item among the user identities corresponding to the given transaction side (C19 lines 1-17)

**Re Claim 59:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses wherein the memory includes an active segment for storing prospective transaction entries with none of said further indications and for storing entries including further indications that are satisfied; and a suspended segment for storing prospective transaction entries including a further indication which is not satisfied, wherein the secure station further includes an entry monitoring component operatively associated with the active and suspended segments, for repeatedly monitoring the entries that include a further indication, to determine whether that further indication is satisfied, and wherein said search component performs said comparison only upon the entries stored in the active segment (C4, lines 63 – C5 line 16; offer and counter offers are further indications)

**Re Claim 60:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses wherein the memory further includes a pending segment for storing prospective transaction entries designated as pending by the corresponding users and a means for shifting an entry from the pending segment to the active segment responsive to a signal from the corresponding user location activating

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the entry (C4 line 63 – C5 line 45; the receipt of an offer or counter offer shifts the entry from pending to active in the memory of the agent and intermediary).

**Re Claim 61:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses a status designation component enabling each user to alternatively designate a prospective transaction entry as active or pending; wherein the memory includes an active memory segment for storing entries designated as active, and an inactive segment for storing entries designated as pending and means for transferring from one of said segments to the other in response to a change in designation (C4, line 63-C5 line 45).

**Re Claim 62:** Ferstenberg discloses a computer method and system for intermediated exchanges comprising:

- Receiving, from a plurality of remote user locations, user information including user identities, and transaction information in the form of prospective transaction entries, each of the entries including a transferable item indication and a transaction side indication identifying one of two opposing transaction sides (C13, lines 41-49).
- Storing the user information and the prospective transaction entries to memory; searching the memory to perform a comparison of the stored entries with respect to the transferable item indications and the transaction side indications, based on said comparison, selecting matching entries to form sets of two or more of the matching entries having the same transferable item indication and together including

transaction side indications identifying the opposing transaction sides  
(See discussion C17-C19)

- In response to selecting each of the sets of entries, generating a prospective transaction message including the transaction indication corresponding to each of the matching entries and providing the prospective transaction message to the user locations associated with the corresponding user identities (C17-C19, specifically C18 lines 45-48)
- Restricting access to any given prospective transaction entry, even if unmatched, stored in the memory to (i) the user identity corresponding to the given entry and (ii) the user identities corresponding to the other entries in any of said sets of entries that includes the given entry (C14, lines 32-41)

Ferstenberg does not explicitly disclose wherein the associated users contact one another toward a completion of a transaction involving the transferable item.

Luke discloses a method for automatically identifying, matching and near-matching buyers and sellers in electronic market transactions wherein potential counterparties have the ability to negotiate directly with one another in order to consummate a potential transaction (C3, lines 54-56). The method of Ferstenberg allows participants to enter bounds relating to a transaction and then systematically negotiate with an intermediary, representing both sides to a transaction, in order to come to a middle ground (see abstract). There is a message exchange protocol



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between the counterparties and the intermediary source, so that each party can maintain their anonymity with regards to a trade. This exchange is automatic and in response to inputs entered by a participant and is issued by an e-agent acting on the participant's behalf.

However, while these automated negotiations will systematically approach a common middle ground for a transaction, it would be difficult to predict, via a computer-coded program, all potential negotiation scenarios. Luke discloses placing parties, who have previously been deemed as potential trading partners into a communication in order to further flesh out details of the transaction (Column 9, lines 49-65). This further direct negotiation provides the counterparties with an even further opportunity to form an acceptable agreement, more so than relying solely on previously entered bounds. Ferstenberg also notes the advantage of direct negotiation in the case of two parties (C12 lines 65-67). It therefore would have been obvious to anyone skilled in the ordinary art to include the direct negotiation between two potential counterparties, subsequent to an initial screening, to the disclosure of Ferstenberg in order to arrive at an even more acceptable agreement. The purpose of the intermediary is to allow the users to anonymously determine worthy trading partners, without disclosing identities or market activity. Once a match has been identified based on initial bounds, providing direct contacting means, as disclosed by Luke would further enhance the process, as the participants have been assured that a counterparty has independently expressed a mutual trading interest, and they can further discuss intimate details. This additional

layer of negotiation would provide the opportunity to increase each counterparty's overall satisfaction with the pending trade.

**Re Claim 63:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses wherein said message sending component provides the prospective transaction message substantially simultaneously to the user locations associated with said corresponding user identities (C12, lines 47-49).

**Re Claim 64:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses wherein prior to receiving the prospective transaction entries from a given user, authorizing the given user based on the give user's meeting of predetermined qualification requirements (Column 15, lines 51-54)

**Re Claim 65:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses wherein said restricting access includes maintaining at the secure location a plurality of user pages, each user page personalized to an accessible only by an associated one of the user locations (C14, lines 32-41)

**Re Claim 66:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses wherein each of the prospective transaction entries further optionally includes a condition, and the process further includes: identifying the prospective transaction entries that include a condition and monitoring each of the entries so identified to determine whether the associated condition is satisfied (C30, line 25 – C31 line 26).

**Re Claim 67:** Ferstenberg in view of Luke discloses the claimed system supra and Ferstenberg further discloses wherein at least a portion of the prospective

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transaction entries include an amount indication associated with the transferable item indication and the process further includes: responsive to the selection of a set that includes at least two entries with the same transaction side indication, apportioning the transferable item among users indicating said same side transaction ((C19 lines 1-17)

**Re Claims 68-77:** Further system claims would have been obvious in order to implement previously rejected method claims 2-8 and 12-14 respectively, and are therefore rejected using the same art and rationale.

**Re Claim 78:** The difference between this independent claim and claim 1, involves the indication of a non-firm expression of interest into the system. The remaining limitations are essentially the same and can be rejected using the same art and rationale. With regards to the non-firm expression of interest, Luke discloses that counterparties, once deemed as potential trading parties, can negotiate terms of the agreement and even terminate the agreement based upon the negotiations (C9 line 49-C10 line 19). This indicates that the parties are not bound exclusively by the information entered initially, which means said information is non-firm. It would have been obvious to anyone skilled in the ordinary art at the time of invention to include the teachings of Luke to the disclosure of Ferstenberg so that a party is not locked into an initial transaction. Since market conditions are dynamic, many things can occur between the entry of an "offer" and the eventual completion of the transaction. Allowing the user to enter non-firm indications, still embodies the goal of good-faith entries, but allows for termination of an offer if conditions change.

**Re Claims 79-93:** For the sake of brevity, these claims contain the same limitations as previously rejected method claims 2-11 and 13-17 respectively and are therefore rejected using the same art and rationale (albeit in combination with a slightly different independent claim).

**Re Claim 94:** The difference between this independent claim and claim 51, involves the indication of a non-firm expression of interest into the system. The remaining limitations are essentially the same and can be rejected using the same art and rationale. With regards to the non-firm expression of interest, Luke discloses that counterparties, once deemed as potential trading parties, can negotiate terms of the agreement and even terminate the agreement based upon the negotiations (C9 line 49-C10 line 19). This indicates that the parties are not bound exclusively by the information entered initially, which means said information is non-firm. It would have been obvious to anyone skilled in the ordinary art at the time of invention to include the teachings of Luke to the disclosure of Ferstenberg so that a party is not locked into an initial transaction. Since market conditions are dynamic, many things can occur between the entry of an "offer" and the eventual completion of the transaction. Allowing the user to enter non-firm indications, still embodies the goal of good-faith entries, but allows for termination of an offer if conditions change.

**Re Claims 95-104:** For the sake of brevity, these claims contain the same limitations as previously rejected system claims 68-77 respectively and are therefore rejected using the same art and rationale (albeit in combination with a slightly different independent claim).

**Re Claim 105:** The difference between this independent claim and claim 52, involves the indication of a non-firm expression of interest into the system. The remaining limitations are essentially the same and can be rejected using the same art and rationale. With regards to the non-firm expression of interest, Luke discloses that counterparties, once deemed as potential trading parties, can negotiate terms of the agreement and even terminate the agreement based upon the negotiations (C9 line 49-C10 line 19). This indicates that the parties are not bound exclusively by the information entered initially, which means said information is non-firm. It would have been obvious to anyone skilled in the ordinary art at the time of invention to include the teachings of Luke to the disclosure of Ferstenberg so that a party is not locked into an initial transaction. Since market conditions are dynamic, many things can occur between the entry of an "offer" and the eventual completion of the transaction. Allowing the user to enter non-firm indications, still embodies the goal of good-faith entries, but allows for termination of an offer if conditions change.

**Re Claims 106-114:** For the sake of brevity, these claims contain the same limitations as previously rejected system claims 68-77 respectively and are therefore rejected using the same art and rationale (albeit in combination with a slightly different independent claim).

**Re Claim 115:** The difference between this independent claim and claim 62, involves the indication of a non-firm expression of interest into the system. The remaining limitations are essentially the same and can be rejected using the same art and rationale. With regards to the non-firm expression of interest, Luke discloses that

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counterparties, once deemed as potential trading parties, can negotiate terms of the agreement and even terminate the agreement based upon the negotiations (C9 line 49-C10 line 19). This indicates that the parties are not bound exclusively by the information entered initially, which means said information is non-firm. It would have been obvious to anyone skilled in the ordinary art at the time of invention to include the teachings of Luke to the disclosure of Ferstenberg so that a party is not locked into an initial transaction. Since market conditions are dynamic, many things can occur between the entry of an "offer" and the eventual completion of the transaction. Allowing the user to enter non-firm indications, still embodies the goal of good-faith entries, but allows for termination of an offer if conditions change.

**Re Claims 116-120:** For the sake of brevity, these claims contain the same limitations as previously rejected process claims 63-67 respectively and are therefore rejected using the same art and rationale (albeit in combination with a slightly different independent claim).

**Re Claim 121:** The difference between this claim and independent claim 1 involves the term "prospective transaction entry," versus an indication of interest. Ferstenberg discloses receiving prospective transaction entries (C13, lines 41-49). The remaining limitations are essentially the same and can therefore be rejected using the same art and rationale used in the rejection of claim 1.

**Re Claims 122-136:** For the sake of brevity, these claims contain the same limitations as previously rejected method claims 2-11 and 13-17 respectively and are

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therefore rejected using the same art and rationale (albeit in combination with a slightly different independent claim).

**Re Claim 137:** The difference between this claim and independent claim 51 involves the term “prospective transaction entry,” versus an indication of interest. Ferstenberg discloses receiving prospective transaction entries (C13, lines 41-49). The remaining limitations are essentially the same and can therefore be rejected using the same art and rationale used in the rejection of claim 51.

**Re Claims 138-147:** For the sake of brevity, these claims contain the same limitations as previously rejected system claims 68-77 respectively and are therefore rejected using the same art and rationale (albeit in combination with a slightly different independent claim).

**Re Claim 148:** The difference between this claim and independent claim 52 involves the term “prospective transaction entry,” versus an indication of interest. Ferstenberg discloses receiving prospective transaction entries (C13, lines 41-49). The remaining limitations are essentially the same and can therefore be rejected using the same art and rationale used in the rejection of claim 52.

**Re Claims 149-157:** For the sake of brevity, these claims contain the same limitations as previously rejected system claims 53-61 respectively and are therefore rejected using the same art and rationale (albeit in combination with a slightly different independent claim).

**Re Claim 158:** The difference between this claim and independent claim 62 involves the term “prospective transaction entry,” versus an indication of interest.

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Ferstenberg discloses receiving prospective transaction entries (C13, lines 41-49). The remaining limitations are essentially the same and can therefore be rejected using the same art and rationale used in the rejection of claim 62.

**Re Claims 159-163:** For the sake of brevity, these claims contain the same limitations as previously rejected process claims 63-67 respectively and are therefore rejected using the same art and rationale (albeit in combination with a slightly different independent claim).

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-163 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Harbeck whose telephone number is 571-272-8123. The examiner can normally be reached on M-F 8:30-5:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Souh can be reached on 571-272-6799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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